IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6391 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KRISHAK BHARATI COOPERATIVE LTD (KRIBHCO)

Versus

MAHENDRASINH GEMALSINH RATHOD

Appearance:

MR MANISH R BHATT for Petitioner

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 27/07/2000

ORAL JUDGEMENT

Heard learned SR. Counsel Mr. R.P. Bhatt appearing on behalf of the petitioner.

2. As the learned counsel for the petitioner seeks to withdraw the petition, at his request, the petition is

taken on board today and disposed of.

3. By order dated 5-7-2000 this Court admitted the petition and granted interim relief against the award of the Labour Court impugned in the petition.

4. The petition was admitted since reliance was placed on decisions of the Apex Court in the case of D.K. YADAV VS. J.M.A. INDUSTRIES LTD (1993) 3 SCC 259 and UPTRON INDIA LTD. VS. SHAMMIBHAN AND ANOTHER (1998) 6 SCC 638. The Labour Court had followed the decision in the case of D.K. Yadav.

5. Learned Senior Counsel Mr. Bhatt has drawn my attention to the recent decision of the Supreme Court in the case of SYNDICATE BANK VS. THE GENERAL SECRETARY, SYNDICATE BANK STAFF ASSOCIATION, reported in 2000 (4) Scale 59. The Apex Court has considered all the previous decisions including the decisions in the case of D.K. Yadav and Uptron India Ltd. on the question regarding voluntarily abandoning services in the light of the provisions contained in either by-partite agreement or the Standing Orders. Supreme Court has very clearly laid down in this decision that the requirements of principles of natural justice are often misunderstood or overstressed. If the concerned employee was aware of the provisions of by-partite agreement or the clause regarding voluntary abandonment or service and his action falls within the provisions, no departmental inquiry is required to be held. In light of this latest decision, the award made by the Labour Court impugned in this writ petition is required to be set aside, after hearing the other side.

6. Learned Senior counsel however states that, for maintaining cordial relations between the employer and employees, at the request of the Union, the respondent employee has been taken back in service with 50 % back wages as awarded by the Labour Court. Learned Sr. Counsel states that, in view of this settlement, the petition does not survive and he seeks permission to withdraw the same. The petition is accordingly permitted to be withdrawn. Rule discharged. Interim stay stands vacated. I make no order as to costs.

Dt: 27-7-2000 (P.K. Sarkar, J)

/vgn.